

The Daily Gazetteer.

WEDNESDAY, SEPTEMBER 24. 1735.

No. 75.



HERE has been, for some Weeks past, an Advertisement published in the *Craftsman* concerning the Bank Contract, and which is threatened to be continued for three or four Months together; the Tenor of which is, to warn all Persons from giving any Credit to a certain Honourable Person, till he has fully cleared himself from a Charge against him, and which, the said Advertisement has been proved upon him without Contradiction; by the said Honourable Gentleman is accused of having at two Meetings of the Directors of the Bank and South Sea Company, and of having drawn up two Writings, notwithstanding an Assertion contained in a Pamphlet, intitled, *Some Considerations on the Bank Funds, &c.* that the said Honourable Person was but at one Meeting, and did never draw up but one Writing relating to that Affair.

WHOEVER reads this notable Advertisement, I hope will consider it with due Seriousness and Attention, and all the Regard to it that a Matter of such Importance requires; for my Part, I cannot but look upon the Decree of a High Court of Justice, invested with sovereign Power, to which not only all Ministers and States, but even the King himself, and both Houses of Parliament, are accountable for their Conduct and

yet tho' I have the profoundest Veneration for this Tribunal, and shall pay the most implicit Obedience to every Act of that illustrious Assembly of Peers; yet I could have wished, for their own Dignity and Honour, that a little more Care had been taken in the Form and Manner of penning an Ordinance of so great a Nature as this; that instead of an Advertisement, the Bank Contract, as it is plainly and simply called, it had been ushered in with that Solemnity of Pomp and Pomp of Expression, which is always used on such Occasions; as for Instance, By *Caleb D'Anvers*, a Proclamation; or, if the parliamentary Measure had been chosen rather, as more agreeable to our Constitution, then, with Submission, it should have been, By the most illustrious and most excellent the Lords of Great Britain in Council assembled, be it enacted, and it is hereby enacted accordingly, &c. and the place where this Great Council was held, ought likewise to have been mentioned, as *Dawley* in the County of *Wiltshire*; *Arlington-street* in the Parish of *St. James's*, *Minster*; at the *Black Lion and Key* in *Russell-street*, the Parish of *St. Paul's*, *Covent-Garden*; or where else it had happened to have been; which Forms, they may add nothing to the Force and Validity of the Act, yet are necessary to command the Attention of the Publick, and to create a greater Veneration in the Minds of the People for the Enactments, without which, the most august Assembly of Patriots will soon sink, in the Esteem of the World, into a Club of *Parliamentary Politicians*.

But tho' the Usefulness and Importance of strictly adhering to prescribed Forms, and the constant Usage in like Cases, could not but be known to those that the penning of the above-mentioned Act or Ordinance; yet those honest Gentlemen have had so little regard thereto, that they have run directly counter to the antient Precedents in the Case before us, except in one Instance; and that is, the Words *Bank Contract*, which, I must admit, are printed in a Black Letter, in the same Manner as all other Publick Acts, Proclamations, and Acts of Parliament, constantly are; and therefore must certainly have their due Weight and

And as it is not expressed by whose Authority this Ordinance, or, as it is called, Advertisement, concerning the BANK CONTRACT, is published, so neither is any Penalty mention'd, for not paying Obedience to it; Persons are, indeed, desired to take notice of it, and to give any Credit to the Assertions of the said Gentleman, till he has fully cleared and purged himself from a Charge; but not a Word said, as they will answer contrary at their Peril, or upon Pain of being look'd upon as Tools of the M—y, or of having their Names and Characters, and Family Affairs exposed in the *Craftsman*, which would have been adequate to the Crime, and probably sufficient to have deterred all Persons from

offending in the Premises; but as all such enforcing and penal Clauses are wholly omitted, I doubt the whole Advertisement will be considered as a mere dead Letter, and the Honourable Gentleman's Assertions have as much Credit given to them as before the said Advertisement was published, any thing therein contain'd to the contrary, in any-wise notwithstanding.

BUT truly I think this a Matter of such Importance, that it very well deserves the best Advice and the maturest Consideration, and therefore I wish the Opinion of some eminent Council, was to be taken upon it; and none I conceive, would be so proper to be consulted with upon this Occasion as that able Lawyer, who the *Craftsman* says, declared that the Agreement between the Bank and South Sea Company, was good and binding, but was in doubt whether the Parties could be compelled to a due Performance: For tho' a vulgar Capacity would be puzzled to comprehend how any one could be bound to do a Thing, which he could not be compelled to perform, yet I suppose it may be a very clear Case to the Sages of the Law, and this learned Gentleman certainly took the wisest Way of satisfying both Parties, and determining this notable Dispute; for as the one could not but be highly pleas'd with such an excellent Opinion, that the Agreement was binding, the other had no Reason to care whether it was so or no, since they were not bound to perform it.

AND, indeed, this Opinion tallies very well with the above Advertisement, and therefore I presume both may be the handy Work of the same ingenious Person; for there may be many Cases happen, wherein the Assertions of the Honourable Person ought not to be credited; as if, for Instance, he should promise to make this learned Gentleman a Judge, I dare venture to say, no Mortal would believe him.

BUT notwithstanding I have the profoundest Reverence imaginable for Mr. D'Anvers, and his Council, and his Advertisement; yet, methinks, there is an Inconsistency between the Opinion and the Advertisement, which I should be glad those great Oracles of the Law, who were advis'd with upon this Subject of the Bank Contract, as it is called, could reconcile; for I am sure no Man in England can do it besides themselves.

NOW, says the *Craftsman*, the Directors of the South Sea Company formed two Questions for the Opinion of Council, upon the Matter in Dispute between them and the Bank; the first was, Whether the said Agreement be good and binding? And whether the Bank may be compelled to the due Performance thereof?

To this Question the Council were clearly of Opinion, that the Agreement was good and binding; but some Doubt was conceived about compelling them to the due Performance.

To this wise Account of this Transaction, after some proper Rebukes upon the Honourable Person for being concerned in this wicked Contract, and some laudable Encomiums upon himself for finding it out, is subjoined the Advertisement now under Consideration; in order, as the Author says, to keep such a complicated Piece of Wick'dness alive in People's Memory; for which Purpose he would have it published every Week for three or four Months together.

LET us see therefore whether this Advertisement is warranted by the Opinion delivered by the Council; for, if it is not, the *Fallshood* charged thereby upon the Honourable Person, must necessarily recur upon the Author of the Advertisement.

THE Question is, Whether the Writing, which the *Craftsman* pretends he has to produce under the Honourable Gentleman's own Hand, is a good and binding Contract? Or, whether it is only a Minute, or Sketch of an Agreement to be offered by the Parties to their Principals, for their Approbation and Concurrence?

WE have seen, even as the Case has been stated by the *Craftsman* himself, that the Council doubted, whether the South Sea Company could compel a Performance of the Agreement? And yet, in the Advertisement immediately following that Account of the Matter, it is called a full and perfect Contract.

NOW, if this was a full and perfect Contract, is it possible to be imagined, that any Man who calls himself a Lawyer, or indeed any Man of common Sense, tho' no Lawyer, could be in the least Doubt, whether

the Bank might be compelled to the due Performance thereof? Can that be said to be a Contract, nay, a full and perfect Contract, which a Man cannot be compelled to perform? At this Rate of Reasoning, every Compliment at the Conclusion of a Letter, may be called a Contract; and when an ingenious Correspondent subscribes himself Mr. D'Anvers's humble Servant, he may, with the same Propriety of Speech, say, the poor Gentleman has contracted to be so; which would certainly be a little hard upon Persons of such great Quality and Fortune as are his Correspondents.

NOW, with Submission to Mr. D'Anvers and his learned Council, can I conceive how this Contract, even supposing it for Argument's sake to be one, could bind the Bank, or any body but those Directors, that made it; their Act certainly could not conclude others, who were not so much as privy to the Transaction. It is not even pretended that there was any Authority from a General Court of the Bank, to empower their Directors to make such a Contract with the South Sea Company; nor was this pretended Contract ratified by a General Court after it was made; without which, I presume, an Act, that disposed in such a summary Way, of the Properties of such a Multitude of People, could be of no Validity. For how could the Directors undertake to make such a Contract, without the Consent of the Proprietors? I know of no such Power vested in them; and they would have been more infatuated than those that were then crying out to them for Help, to have done it without; and thereby have hazarded the Consequences of such a rash Proceeding.

FROM all which it is very evident, that as this was no Contract, which in Law the Bank was obliged to perform, so neither was it, nor could be in the Nature of the Thing, ever intended as such. A Proposal was made at a Committee of Directors of the Bank and South Sea Companies, which was reduced into Writing, and consented to by all the Persons present; the next Day a Court of Directors of each Company agreed to what their respective Committees had done, but did no other Act to confirm it, than by barely giving their Assent to it; the Proposal stood as it did before; it was thrown into no Form nor Method; it was not so much as subscrib'd by the Parties; there were no Penalties for a Breach of the Condition; in a Word, this mighty Contract, which was to pass almost four Millions of other People's Property, had none of the Essentials requisite for a Bond of 50 Pound.

Is it therefore possible to suppose, that any thing further could be meant by the Directors of the Bank, in consenting to this Proposal, than conditionally that it should be approved by a General Court? Without which, as I have observed before, it was a mere Nullity. Can any Man in his Senses imagine, that such a wise Body of Men, could understand that they were to be concluded by their bare Assent, to make a binding Bargain at all Hazards, which they, as well as any Body in the World, must know they had no Power to do; and to make themselves answerable for the Consequences, if it should be refused to be ratified by their Constituents? Would not the Directors of the Bank have at least advis'd with their Council before they had taken such an extraordinary Step, to know how far what they were doing was good in Law, and how far their Power extended?

BUT to shew beyond any Possibility of Doubt, that this Thing, which is now called the Bank Contract, was only understood as a Proposal proper to be consider'd of, even after it had been agreed to by the Directors of both Companies, and not as a complete and binding Bargain; one need only refer to the Answer that was delivered in Writing by the Governor of the Bank, to the Deputy Governor of the South Sea Company; where, after putting the Directors of the South Sea Company in mind, of the Readiness that the Bank had shewn, to join in any Measures that might tend to the Service of the Publick, it proceeds to say, But some Difficulties appearing to the Directors of the Bank, they have consulted with their Council, and they are advis'd, considering the Nature of this Transaction, it will not be safe for them to proceed upon the said Proposition, without Consent of Parliament. However, they think it reasonable, that in the mean time, the Committee of the South Sea should give the Committee of the Bank some Accounts of their Estate, for the Satisfaction of their Principals.

* *Craftsman* Aug. 9. 1735.

Now



Now, must not the Directors of the Bank have been absolutely distracted, first to make a *binding Bargain*, or in the Language of the *Craftsman's Advertisement*, a full and perfect Contract; and afterwards to have advised with their Council, *whether it was safe for them to proceed on it? Should not they have taken that Precaution sooner? And was it not too late to do it now?* When once they had bound themselves by their Contract, I should imagine they were obliged to *proceed upon it*, whether it was *safe* for them to do so or no; and could any Council in the Kingdom be so ignorant and so stupid, to tell their Clients, *it was not safe for them to proceed in a Contract*, already perfected and concluded; and consequently which they had obliged themselves at all Events to perform?

BUT if this had been consider'd, as a full and perfect Contract, would it not have been reasonable for the Bank to have insisted on an Account of the South Sea Company's Estate, before they had enter'd into it? Was not that a most necessary Step to be taken, before any Bargain was concluded? Considering the Situation of the South Sea Company at that Time, would any Man, much more would such a Body of Men, as the Directors of the Bank, so cautious, so experienced in Business, so conversant in Affairs as they are known to be, have concluded an Affair of such Consequence, as this pretended Contract, without the strictest and minutest Inquiry into the Circumstances of that Company? Would they leave that material, that important Thing to be done after the Contract was finished? Was not the South Sea Company at Liberty then to refuse to give any Account of their Estate, without the least Prejudice to their Contract? And what could such an Inquiry have then tended to, if the South Sea Company would have submitted to it, but to have given the finishing Stroke to publick Credit, and have exposed the Folly and Weakness of the Bank, in making such a blind Bargain?

WELL but, says the *Craftsman*, methinks it has very much the Air of a Contract; what the Air of a Contract is, I own, I don't perfectly understand; but whatever it is, certainly that which has only the Air of a Contract, can never be said to be a full and perfect Contract; nay, it can't be said to be any Contract at all. A Man may have the Air of a Gentleman, and yet be a Brute; or the Air of a Patriot, and yet be guilty of the most dangerous and infamous Corruption, a publick Incendiary, and a Spreader of the most notorious Falshoods, and the most scandalous Calumny and Defamation; and in the same Sense as Mr. A — y, or Mr. — , or the Inventors and Propagators of this low, contemptible, ridiculous Tale about the Bank Contract, are Patriots, I will allow this to be a full and perfect Contract; but surely a Man must have very little Regard to what he says, or rather he will say any thing to serve a Turn, that in a publick Advertisement repeated from Week to Week, and industriously spread all over the Kingdom, can call this Thing a full and perfect Contract, prov'd without Contradiction to be so, when it has not only been contradicted, but demonstrated over and over again to be no Contract at all, and which he himself, in the strongest Light that he has been able to put it, could go no further than to say, it had very much the Air of a Contract, that is, at the most but a bare Resemblance, without a Thing can be said to resemble itself, which would be something like a Man's being his own Parallel; which, however, if apply'd to Mr. D'Amers, I don't know but it might be proper enough; for surely when one considers his strange, unaccountable Conduct, his condemning Measures at one time, which he not only approv'd, but zealously promoted at another, his groundless and unreasonable Animosities against those for whom he once professed the truest Esteem and sincerest Friendship, and his contracting the most strict and intimate Alliance with those whom he once held in the most sovereign Contempt and the utmost Abhorrence; I say, if one takes a View of this Gentleman's Conduct, and sees what an eternal Circle of Contradictions and Inconsistencies he is continually running round, it will be no great Absurdity to say of him, what the modern Poet does of his Hero,

None but Himself can be his Parallel!

I should here have taken some Notice of the Remission of the two Millions, which the Case of the Sinking Fund would have to be done, as a Composition for the Bank Contract; but I am afraid I have spun this Paper out into too great a Length already; and besides, if this was no Contract at all, as I think it has been prov'd very evidently it was not, then all the elaborate Reasonings upon this Head must fall to the Ground of themselves; for it would be highly ridiculous to imagine, that the Parliament should give the South Sea Company two Millions, to release the Bank from a Bargain which they were neither in Law nor Equity obliged to perform.

Königsberg, Sept. 19.

BY a Computation of the Money which it has cost King Stanislaus to maintain his Polish Courtiers at this Place, who are still very numerous and gay, it amounts to 20,000 Ducats a Month.

Ratisbon, Sept. 22. The States of Bohemia have represented to the Emperor, 'That the frequent Journeys of young Gentlemen to France, have never been of any Advantage to their native Country; but on the contrary, has drained it of considerable Sums, and introduced a great many Novelties into the Kingdom in Exchange, which they could very well be without: That therefore the said States intreat his Imperial Majesty to suffer no more such Travels, without a special License, under a severe Penalty.' This Petition has not only been granted by the Emperor, but a Decree is to be published throughout the Empire, for prohibiting the Importation of Toys, or such other Merchandize from France, as only promotes Luxury, both in Time of Peace and War, in order to save the considerable Sums of Money that are every Year carried out of Germany for such Trifles.

Hamburg, Sept. 23. Our Regency has sent 4 very tall Men, which cost them 1250 Crowns per Man, as a Present to the King of Prussia, for his powerful Intercession at Copenhagen in favour of this City; and upon this Occasion they call to Mind, that whereas the King of Denmark always treated this City as an Hereditary Dependence on the Crown of Denmark, his Prussian Majesty on the contrary consider'd it as a Free Town, and a Part of the Body of the Empire.

Ingolstadt, Sept. 18. The Elector of Bavaria has a Camp here, consisting of 18,000 Men. The Difficulties that retarded the March of that Prince's Quota of Forces to the Army of the Empire, seem to be entirely removed, and so are the Reasons which the Elector Palatine had for not sending his Contingent to it for the Dutchy of Neubourg. The Palatine Troops of which it consists, marched on the 8th Instant, to Donawert, where they joined those of the Bavarian Contingent; and we are assured, that both Bodies, consisting together of 2200 Men, arrived at Sintzheim, on the 10th, in their Way to the Army of the Empire.

Cleves, Sept. 28. About 2000 Peasants of the Electorate of Cologne, excited by the Clergy, entered the Town of Siegen by Force, in order to support the Roman Catholic Faction there; but they were repulsed with the Loss of several Men and their Arms, by the Protestant Inhabitants, assisted by some neighbouring Militia.

From the Upper Rhine, Sept. 24. The Emperor has advanced the Count de Seckendorf to the Post of Field-Marshal-General of his Armies, and has declared the Baron de Schmettau, to be General of the Ordnance of the Empire. The latter is to command the Body which is encamped near Bruchsal, in the Room of the Duke d'Aremberg, who is now with Prince Eugene at Heidelberg. The Generals de Stirum and Thaur set out on the 22d, to hasten the March of their Regiments that were garisoned in Luxemburg, to the Moselle, in order to dislodge the French from those Parts, in Conjunction with some other Troops. A Russian Soldier having, in a Boxing Match at Mannheim, beat a Couple of Frenchmen, and sadly maul'd them, the Regency, to prevent such Encounters for the future, has made Proclamation, that no Soldier of either of the two Nations, shall be suffered to come into the City.

Brussels, Sept. 26. A Placaert is published here, by which all Goods of the last Sale that was made by the Ostend Company, are exempted from paying the Duties of Exportation for a Year to come; provided the Owners declare upon Oath, that there is no Mixture of Merchandize imported from foreign Countries.

Paris, Sept. 28. N. S. Letters from Italy bring an Account, that the French Troops had seized in the Venetian Territories, 500,000 Rations of Hay, and 6000 Sacks of Corn, which were designed for the Imperial Army; at which Proceeding the Venetians are very uneasy, and have resolved to make the strongest Representations against it.

Hague, Sept. 30. N. S. The States of Holland separated on the 24th Instant, and have appointed to meet again on the 5th of next Month. It is confirmed that Orders are come to Brussels, for providing Quarters for 40,000 Imperialists in the Austrian Netherlands; and that the necessary Dispositions are actually making accordingly.

LONDON.

We hear, that Captain Matthews, who went to Petersburg, to engage himself in the Service of the Court of Russia, is returning home to England, the Terms that he insisted on not being complied with. It seems

he wanted to be made Admiral, or, at least, first Vice-Admiral; but the Czarina, tho' willing to grant him the Title of Vice-Admiral, did not think fit to parade her other Vice-Admirals.

'Tis said, that as his Majesty returns to England, will stop at Loo, to pay a Visit to the Prince and Princess of Orange.

Mr. Faulkener, lately appointed Ambassador at Constantinople, is gone from the Hague, to wait on his Majesty at Hanover, for his final Instructions.

Yesterday the Right Hon. the Speaker of the House of Commons, who is come from his Seat in the County of Surry, to his House in Leicester-street, waited on her Majesty at Kensington.

Last Friday Mr. Brown, Master of the Cold-chamber at Hoxton, had the Misfortune to fall down Stairs, and bruised himself in such a Manner, that he died on the day Night.

Last Monday died at his House in Tower-street, Rooke, a noted Wine Merchant of this City.

Yesterday Philip Cornforth, Esq; was married to Miss Jean Pearcehouse, Daughter of Pearcehouse of Barnes, Esq; a young Gentleman with a Fortune of 6000 l.

The same Day her Grace the Dutchess of Devon lay past all Hopes of Recovery.

Last Saturday was interred in great funeral at Littlecot in the County of Wilts, the Corpse of Popham of Littlecot, Esq; descended from Popham, a Gentleman possessed of 7000 l. per Annum, which descends to his only Son Alexander Popham, now of Littlecot, Esq;

This Day their Royal Highnesses the Duke and Princess Amelia will go to Windsor to hunt a Hind.

Yesterday Christopher Montagu, Esq; one of the Commissioners of the Excise, and Uncle to the late Halifax, lay at the Point of Death.

The same Day a large new Ship, built at Deptford for the Service of the East India Company, was launched, and is to be commanded by Captain Woodcock.

Last Monday about 2 o'Clock in the Afternoon, the Coroner's Jury met at the Hoop Tavern in the Strand, in relation to the Death of one Kitty Hamilton, who was found murdered in Denmark-court in the Strand, and the Jury, after about eight Hours Examination, brought in their Verdict, Willfully strangled to Death. Several Marks of Violence were found upon her. Yesterday the Coroner sent his Warrant down to Newgate, charging her Mother and two Sisters with said Murder.

The same Day two more of the Gang were taken with the Persons who were hang'd on Monday at Tyburn, for ravishing Margaret MacCallum, were apprehended, and committed to Newgate; and hear that Warrants are out for apprehending four more of their Accomplices.

Yesterday Bank Stock was 142 1-4th in Opening. India 149 3-4ths. South Sea 87 1-2. Annuity 108 to 1-8th. Books shut. New annuities Three per Cent. Annuity 94 3-8ths. English Loan 100 3-8ths. Royal-Assurance 97 1-2. London-Assurance 12 1-half to 5-8ths. York 4 to 5 1-2. African 15 1-half. India Bonds 4 to 5 1-2. Prem. Three per Cent. ditto 21 1-2 to 17s. Premium. S. Sea Bonds 31. Premium. Bank Circulation 31. 17s. 6d. Premium. Salt 31. 5s. Premium. English Copper 21. 2s. ditto, Books shut. Three 1-half per Cent. chequer Orders 1 l. 5 s. per Cent. Discount.

BOOKS printed for T. Woodward at the Half-Moon between the two Towers in Fleet-street, and J. Peck at Locke's Head in Amen-Corner, Pater-noster-Row.

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